IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 20786 of 2003

Between:

Setwin Mini Bus Entrepreneur Association, a registered Society bearing No.4412, under A.P.(T.A) Public Societies
Registration Act, having registered office at Koti, Hyderabad, rep. by President M.A. Sattar, Owner of bearing Bus.No.A.D.T.9182.

..... PETITIONER

AND

1. State of A.P., Youth Advancement, Tourism & Culture (NYS] dept secretariat, Saifabad, Hyderabad, rep. by its Principal Secretary.
2. The society for Promotion and Employment and Training in Twin Cities (Setwin), Purani Haveli, Hyderabad, rep. by its Chairman and Managing Director.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or other appropriate order or direction in the nature of a writ declaring the memo bearing No.1408/Setwin/Transport/03 dated 29.8.2003 issued by the 2nd respondent as arbitrary, discriminatory and without any authority violating Articles 14,21 and 300-A of the constitution of India and consequently direct the respondents not to collect any amounts from the members of the petitioner-association mentioned in annexure towards Royalty.

Counsel for the Petitioner: MR.B.NALIN KUMAR

Counsel for respondent No.1: none appeared

Counsel for the Respondent No.2 : MR.K.RAMANUJA CHARI

The Court made the following:

ORDER:

Heard both sides.

The petitioner herein is an Association known as 'Setwin Mini Bus Entrepreneur Association' filed this Writ Petition, *inter alia*, seeking the Writ of Mandamus declaring the impugned memo bearing No.1408/Setwin/Transport/03 dated 29.08.2003 issued by the second respondent as illegal.

The case of the petitioner, in brief, is that having regard to the terms of agreement, the question of payment as sought to be made under the impugned memo at higher rate is wholly unsustainable and that apart, the same is illegal and violative of rules of natural justice.

The learned standing counsel appearing for the respondents submits that having regard to the various circumstances and also exigencies, the rate was enhanced from Rs.1,500/- to Rs.3,000/-. Having considered the submissions made on either side and on perusal of material on record, it is seen that the agreement on which reliance is sought to be placed by the petitioner herein itself contemplated in Clause 19 of Agreement, which reads thus:

> "In the event of any major disputes arising relating to the interpretation of the above clauses, the matter shall be referred to the Commissioner, Special Employment Schemes and Ex-officio Secretary to Government Finance & Planning (S.E.) Department, Government of Andhra Pradesh and his decision shall be final and binding on both the parties."

Having regard to the same and especially having regard to various questions involved in this matter, they should be considered by the such authority, after thorough enquiry into the matter, it is not open to the petitioner to invoke Article 226 of the Constitution of India.

In the circumstances, the Writ Petition is dismissed, however, with liberty to the petitioner to approach the said authority with an application for deciding the dispute within a period of four weeks from today and on such application the same shall be considered and disposed of on merits. It shall be open for both sides to raise objections also in that case, which can be considered after giving opportunity to both sides.

It is needless to mention that till the disposal of the said dispute, the interim stay granted by this court in W.P.M.P. No. 26009 of 2003 dated 26.09.2003 shall remain in force.

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16-08-2004

kvrm/gs

To

1. The Principal Secretary, State of A.P., Youth Advancement,

Tourism & Culture (NYS] dept secretariat, Saifabad, Hyderabad.
2. The Chairman and Managing Director, the Society for

Promotion and Employment and Training in Twin Cities

(Setwin), Purani Haveli, Hyderabad.

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